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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Provisions in the Telecommunication Act of 1996	)	CC Docket 96-98
	)	
Inter-Carrier Compensation for ISP-Bound Traffic	)	CC Docket 99-68

Comments of General Communication, Inc.

General Communication, Inc. (GCI) hereby submits comments in response to the Declaratory Ruling and Notice of Proposed Rulemaking (Declaratory Ruling and Notice)[1] issued in this matter.

Introduction

The Commission issued the Declaratory Ruling and Notice to address the issue of reciprocal compensation on traffic delivered to an information service provider (ISP). The Commission determined that a substantial portion of the ISP bound traffic is interstate. However, the Commission choose not to interfere with state determinations on whether reciprocal compensation was due on this type of traffic. ISPs continue to not be subject to access charges. The Commission states that it will support policies that best facilitate the development of high bandwidth data networks

[1] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, FCC 99-38, released February 26, 1999.

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while preserving efficient incentives for investment and innovation in the underlying voice network. In doing so, the Commission should ensure that its policies regarding ISPs do not impact interexchange competition in an adverse way.

The Decision Will Impact Interexchange Competition

As noted in the Declaratory Ruling and Notice, ISPs purchase business lines from a local tariff. Under the separations rules, the traffic, costs and revenues must follow the jurisdiction where the service is tariffed. The separations manual is very specific.[2] Pursuant to the glossary of terms under Part 36 of the Commission's rules, separations is defined as "the process by which telecommunications property costs, revenues, expenses, taxes, and reserves are apportioned among the operations." Operations is defined as "the term denoting the general classifications of services rendered to the public for which separate tariffs are filed, namely exchange, state toll and interstate toll." Therefore, the "costs, revenues, expenses, taxes and reserves" must follow the appropriate tariff. The business lines provisioned for ISPs are sold under the local tariff. It is not tariffed at the FCC. Under separations, the revenues, costs, and minutes must

[2]Even though the Commission is considering changes to the separations manual in CC Docket 80-286, the current rules are still in effect and must be followed unless an ILEC receives a waiver of the rules.

fall in the same place.

The Separations Manual further states that "the fundamental basis on which separations are made is the use of telecommunications plant in each of the operations"[3] and that the costs are apportioned among operations and "amounts of revenues and expenses assigned each of the operations" (i.e., each of the tariffs)" are identified as to account classification." [4]

Under current rules, ISPs or enhanced service providers (ESPs) are treated as end users. These end users pay for "local business lines for access for which they pay local business rates and subscriber charges."[5] The Commission has affirmed this policy in its Access Reform proceeding[6] and in this Declaratory Ruling and Notice. Specifically the Commission stated that

> this order does not alter the long standing determination that ESPs (including ISPs) can procure their connections to LEC end offices under intrastate end-user tariffs, and thus for those LECs subject to jurisdictional separations both the costs and the revenues associated with such connections will continue to be accounted for as intrastate.[7]

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[3]47 CFR Section 36.1(c).

[4]47 CFR Section 36.1(g).

[5]Amendment of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, 3 FCC Rcd 2631, 2635 (1986).

[6]Access Charge Reform, 11 FCC Rcd 21354, 21478-80 (1996).

[7]Declaratory Ruling and Notice, paragraph 26.

The Commission is not enforcing this rule. In its 1998 annual access charge filing, Anchorage Telephone Utility (ATU) inappropriately mischaracterized Internet minutes.[8] ATU recorded all of their ISP traffic as interstate for their traffic study.[9] This independent decision by ATU and other ILECs[10] creates an environment where access charges will substantially increase, which is in conflict with the Commission's goal to substantially lower access charges. ILECs place all the costs of providing access to ISPs in the interstate jurisdiction, thereby allocating the costs to access. In turn, this increases the amount of dollars that must be recovered through access in the interstate jurisdiction. However, the ILECs do not include the ISP minutes in the their demand calculations.[11] This causes a reduced number of minutes combined with an increasing amount of dollars to be recovered and will make access rates go up, particularly for rate of return carriers and especially for carriers that are covered by the rural exemption process.

[8]See GCI's Petition to Reject or in the Alternative to Suspend and Investigate, ATU 1998 Annual Access Filing, Transmittal No. 97, filed June 29, 1998.

[9]ATU 1998 Annual Access Filing, Transmittal No. 97, Section 4 of Description & Justification, paragraph I.

[10]The Commission notes that SBC planned to allocate 100 percent of the costs associated with Internet traffic , which it previously had classified as local to the interstate jurisdiction. Declaratory Ruling and Notice, footnote 76.

[11]Furthermore, if the ILEC faces competition, it can project that it will lose demand due to competition. This makes the situation even worse.

This will defeat the goals of the Commission to support policies that facilitate the development of high bandwidth data networks. These costs and revenues must be recovered appropriately without access charges increasing for interexchange carriers.

Conclusion

The Commission must ensure that the treatment of ISP traffic does not adversely impact interexchange carriers and interexchange competition. The Commission must also ensure that local competition and innovation are encouraged.

Respectfully submitted,

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April 12, 1999

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed April 12, 1999.

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CERTIFICATE OF SERVICE

I, Kathy L. Shobert, hereby certify that true and correct copies of the proceeding comments were served by first class mail, postage prepaid to the parties listed below.

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